

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

EVERETT JEROME TRIPODIS,

DEFENDANT.

DOCKET NUMBER  
1:05-CR-381-ODE

ATLANTA, GEORGIA  
MOTION HEARING  
JULY 23, 2007

TRANSCRIPT OF TAPE-RECORDED PROCEEDINGS  
BEFORE THE HONORABLE ALAN J. BAVERMAN,  
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

FOR THE GOVERNMENT:

U. S. ATTORNEY'S OFFICE  
BY: A.U.S.A. JOSEPH PLUMMER  
ATLANTA, GEORGIA

FOR DEFENDANT:

L. DAVID WOLFE, ESQ.  
ATLANTA, GEORGIA

TRANSCRIBED BY:

ANDY ASHLEY  
OFFICIAL COURT REPORTER  
1949 U.S. COURTHOUSE  
75 SPRING STREET  
ATLANTA, GA 30303  
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PROCEEDINGS RECORDED BY TAPE, TRANSCRIPT PRODUCED BY COMPUTER.

1           (IN ATLANTA, FULTON COUNTY, GEORGIA, MONDAY, 07-23-07;  
2       IN OPEN COURT.)

3           THE COURT: THIS IS THE CASE OF UNITED STATES OF  
4       AMERICA VERSUS EVERETT TRIPODIS. IT'S CASE NUMBER 1:05-CR-  
5       381. IT'S ASSIGNED TO JUDGE EVANS AND WITH JUDGE FELDMAN'S  
6       RETIREMENT, IT HAS BEEN REFERRED TO ME BY JUDGE EVANS. MR.  
7       PLUMMER IS HERE REPRESENTING THE UNITED STATES. MR. WOLFE  
8       IS HERE REPRESENTING MR. TRIPODIS. I SET THIS DOWN FOR A  
9       HEARING TODAY. THERE ARE ACTUALLY TWO MOTIONS. THERE'S MR.  
10      WOLFE'S MOTION WHICH IS DOCUMENT 125, A MOTION TO WITHDRAW  
11      AS COUNSEL. AND MR. TRIPODIS HAD FILED A PRO SE MOTION  
12      REQUESTING APPOINTMENT OF COUNSEL FOR APPEAL WHICH IS  
13      DOCUMENT NUMBER 111. THERE ARE A NUMBER OF OTHER MATTERS  
14      PENDING BUT IF I LET MR. WOLFE WITHDRAW, THEY WILL AWAIT NEW  
15      COUNSEL TO BE ABLE TO REPRESENT MR. TRIPODIS. SO WE CAN  
16      TALK ABOUT THOSE.

17           FIRST OF ALL, WHAT IS THE GOVERNMENT'S POSITION?

18           A.U.S.A. PLUMMER: YOUR HONOR, I DON'T THINK THE  
19      GOVERNMENT HAS ANY INTEREST IN ATTORNEY/CLIENT RELATIONSHIP  
20      BETWEEN MR. WOLFE AND MR. TRIPODIS.

21           THE COURT: OKAY. ALL RIGHT, WELL, I FIGURED THAT'S  
22      WHAT YOU WERE GOING TO SAY, MR. PLUMMER, BUT I WANTED TO  
23      HAVE YOU HERE. NOW, HOWEVER, I'M GOING TO EXCUSE YOU. AND  
24      IF YOU WOULD JUST REMAIN OUT IN THE HALLWAY, I'LL CALL YOU  
25      BACK IN.

1           A.U.S.A. PLUMMER: ALL RIGHT. THANK YOU.

2           THE COURT: OKAY, THE RECORD SHOULD REFLECT THAT MR.  
3 PLUMMER HAS LEFT THE COURTROOM. ALL RIGHT, MR. WOLFE, LET  
4 ME HEAR FROM YOU.

5           MR. WOLFE: OKAY. GOOD MORNING, JUDGE. JUDGE, I DO  
6 WANT TO SAY FOR YOU AND THE RECORD THAT MR. TRIPODIS AND I  
7 ACTUALLY HAVE A PRETTY GOOD RELATIONSHIP, IN FACT A VERY  
8 GOOD RELATIONSHIP. WE'VE WORKED VERY HARD ON THE  
9 ALLEGATIONS IN HIS CASE THAT WERE PRETTY ALL-ENCOMPASSING.  
10 WHEN WE RESOLVED THIS CASE WITH A PLEA, IT WAS DURING THE  
11 PLEA HEARING THAT CERTAIN THINGS OCCURRED THAT MADE, THE WAY  
12 I UNDERSTAND IT, MR. TRIPODIS BELIEVE THAT THERE HAD BEEN  
13 SOME VIOLATIONS OF THE PLEA AGREEMENT. HE AND I HAVE TALKED  
14 BACK AND FORTH WITH REGARD TO THOSE THINGS.

15           THERE WERE ALSO -- THERE ARE ALSO SOME APPELLATE ISSUES,  
16 ONE IN PARTICULAR THAT I THINK IS AN INTERESTING AND GOOD  
17 ISSUE, BUT I WAS RETAINED TO REPRESENT HIM FOR THE  
18 INDICTMENTS THAT WERE PENDING AGAINST HIM AND I DID  
19 REPRESENT HIM HERE IN FEDERAL COURT AND I'M STILL  
20 REPRESENTING HIM OVER IN STATE COURT. I WASN'T RETAINED TO  
21 DO AN APPEAL IN THIS CASE AND MR. TRIPODIS DOESN'T HAVE THE  
22 RESOURCES TO DO AN APPEAL.

23           AS WE REVIEW THE TRANSCRIPT OF THE SENTENCING HEARING,  
24 MR. PLUMMER HAS RESPONDED -- JUDGE EVANS DID NOT ASK FOR ANY  
25 JONES EXCEPTIONS AND SHE DIDN'T ADVISE MR. TRIPODIS OF HIS

1 RIGHTS TO APPEAL. MR. TRIPODIS'S SENTENCING ALSO DEALT WITH  
2 WHETHER OR NOT HIS SENTENCE SHOULD RUN CONCURRENTLY OR  
3 CONSECUTIVELY TO HIS SUPERVISED RELEASE REVOCATION WHICH HAD  
4 ENDED SOME NINETEEN MONTHS BEFORE. AT THE CONCLUSION OF THE  
5 SENTENCING, WE DEALT WITH THE SUPERVISED RELEASE REVOCATION  
6 AND WHETHER OR NOT IT SHOULD RUN CONCURRENTLY OR  
7 CONSECUTIVELY. MS. EVANS ASKED IF THERE WERE ANY  
8 EXCEPTIONS, AND I RESPONDED TO WHAT SHE HAD DONE BY RUNNING  
9 THE CASES CONSECUTIVELY SINCE HE HAD -- THIS INDICTMENT  
10 WASN'T RETURNED UNTIL AFTER HE HAD BEEN SENTENCED -- HE HAD  
11 BEEN SENTENCED AND FINISHED WITH HIS NINETEEN MONTHS OF  
12 SUPERVISED RELEASE REVOCATION. AND I DID RESERVE THAT  
13 EXCEPTION.

14 MR. PLUMMER HAS SUGGESTED THAT PERHAPS AT SENTENCING --  
15 WHEN I SAY RESERVED, SHE SAID ANY EXCEPTIONS AND I SAID  
16 YEAH, JUDGE, HIS GUIDELINES FOR THE SUPERVISED RELEASE WERE  
17 TEN MONTHS AND HE GOT NINETEEN MONTHS. YOU SHOULD AT LEAST  
18 RUN THE NINE MONTHS THAT JUDGE TIDWELL -- WENT OVER THOSE  
19 SORTS OF THINGS, I ARGUED SPECIFICALLY THAT ISSUE. MR.  
20 PLUMMER IS SUGGESTING THAT THAT MAY HAVE BEEN A JONES  
21 INQUIRY AND IF IT WAS THAT IF I DIDN'T PRESERVE SOME OF THE  
22 OTHER ISSUES, I MAY HAVE BEEN INEFFECTIVE WHICH I GUESS SOME  
23 APPELLATE COUNSEL WOULD HAVE TO RAISE OTHER THAN MYSELF.

24 IF I AM ALLOWED TO WITHDRAW, AND IF MR. TRIPODIS IS  
25 APPOINTED NEW APPELLATE COUNSEL OR COUNSEL TO HELP HIM WITH

1 HIS POST-SENTENCE MOTIONS, HE KNOWS AND I'VE SHARED WITH HIM  
2 THAT I WILL DO EVERYTHING THAT I CAN TO ASSIST THAT  
3 INDIVIDUAL. I MAY BE A WITNESS AND I GUESS FOR THOSE  
4 OVERALL REASONS, I'M ASKING TO WITHDRAW.

5 THE COURT: OKAY. MR. TRIPODIS, LET ME HEAR FROM  
6 YOU.

7 MR. TRIPODIS: OKAY, SHALL I GO TO THE PODIUM OR  
8 SPEAK FROM HERE?

9 THE COURT: NO, JUST PUSH THE MICROPHONE CLOSER TO  
10 YOU.

11 MR. TRIPODIS: OKAY. AS MR. WOLFE HAS INDICATED, WE  
12 DO HAVE A GOOD RELATIONSHIP AND WE DID WORK TOGETHER WITH  
13 REGARDS TO THE OBJECTIONS AND -- TO THE PRESENTENCE REPORT.  
14 AND MY -- A HUMONGOUS PORTION OF MY POST-SENTENCING MOTIONS  
15 DEAL WITH THE GOVERNMENT'S -- WHAT I INTERPRET TO BE THE  
16 GOVERNMENT'S BREACH OF THE PLEA AGREEMENT.

17 AND AT SENTENCING I FEEL LIKE THEY BREACHED THE  
18 AGREEMENT AND I FILED THE MOTIONS PRO SE BECAUSE I HAD NOT  
19 RETAINED MR. WOLFE FOR THE APPELLATE PROCESS. AND ONCE I  
20 OBTAINED A COPY OF THE TRANSCRIPT AND READ IT, THERE IS A  
21 LITTLE AMBIGUITY, I THINK IT'S SLIGHTLY AMBIGUOUS AS TO HOW  
22 IT COULD BE INTERPRETED WHEN JUDGE EVANS SAID, "ANY  
23 EXCEPTIONS." I DIDN'T TAKE IT AS HER SOLICITING FULLY  
24 ARTICULATED OBJECTIONS TO THE CONCLUSIONS OF LAW OR THE  
25 MANNER IN WHICH THE SENTENCE WAS IMPOSED. BUT CERTAINLY THE

1 GOVERNMENT HAS TAKEN IT THAT WAY AND IF IN FACT IT IS TO BE  
2 INTERPRETED AS SATISFYING THE JONES RULE, THEN THERE COULD  
3 BE -- THERE WILL MORE THAN LIKELY BE AN ISSUE AS TO WHETHER  
4 OR NOT MR. WOLFE WAS INEFFECTIVE FOR NOT PRESERVING MY  
5 OBJECTIONS WITH REGARDS TO THE OTHER ISSUES AT THE  
6 SENTENCING HEARING.

7 SO THIS ISN'T A SITUATION WHERE, YOU KNOW, I'M FIGHTING  
8 WITH MR. WOLFE OR WHERE, YOU KNOW, I THINK HE'S A BAD GUY  
9 AND, YOU KNOW, HE RUINED MY LIFE. IT'S JUST BASICALLY I  
10 DIDN'T APPOINT -- I DIDN'T -- I CAN'T AFFORD TO HIRE AN  
11 ATTORNEY ON MY OWN AND THERE MAY BE SOME INEFFECTIVE ISSUES  
12 THERE I MIGHT HAVE TO RAISE.

13 THE COURT: OKAY, MR. WOLFE, I NEED TO KNOW HOW MUCH  
14 YOU WERE PAID, UNDER THE ELEVENTH CIRCUIT RULES.

15 MR. WOLFE: I KNOW HOW MUCH IT WAS. I THINK IT WAS  
16 IN 2005. MY ENTRY OF APPEARANCE WILL BE REFLECTED ON THE  
17 DOCKET. I WAS PAID \$35,000. AND I AM HANDLING THIS CASE.  
18 AND IF YOU LOOK AT THE DOCKET, WE'VE DONE A TREMENDOUS  
19 AMOUNT OF WORK IN THIS CASE, BUT I'M ALSO HANDLING TWO  
20 FELONY INDICTMENTS THAT WERE RETURNED IN THE SUPERIOR COURT  
21 OF FULTON COUNTY WITH REGARD TO MR. TRIPODIS, ALL FOR THE  
22 SAME THING. AND THOSE CASES ARE STILL PENDING DOWN THERE.

23 THE COURT: IS THAT -- IT'S NOT A SITUATION WHERE AS  
24 A RESULT OF MR. TRIPODIS'S FEDERAL SENTENCE, THE STATE  
25 AUTHORITIES ARE GOING TO REMIT?

1 MR. WOLFE: UNDER THE STATUTORY DOUBLE JEOPARDY  
2 STATUTE, I HAVE A MOTION WITH REGARD TO ONE OF THOSE CASES.  
3 WITH REGARD TO THE OTHER CASE, THE ANSWER IS NO, JUDGE.

4 THE COURT: ALL RIGHT. I THINK BASED ON THE  
5 STATEMENTS OF MR. TRIPODIS THAT A CLAIM MIGHT HAVE TO BE  
6 BROUGHT AS TO WHETHER OR NOT CERTAIN OBJECTIONS WERE MADE.  
7 ALTHOUGH THAT CAN'T BE RAISED ON DIRECT APPEAL AND THERE'S  
8 AN ISSUE IN MY MIND AS TO WHETHER OR NOT I HAVE, OR JUDGE  
9 EVANS HAS, JURISDICTION TO RULE ON ANY OF THE PENDING  
10 MOTIONS BECAUSE THERE WAS A NOTICE OF APPEAL FILED. BUT  
11 WE'LL ADDRESS THAT. BASED ON ALL THAT, I WILL GRANT THE  
12 MOTION TO WITHDRAW AS COUNSEL.

13 MR. WOLFE: MAY I SHARE ONE THING WITH YOU, JUDGE?  
14 JUST SO YOU KNOW, THERE WAS A -- WITH REGARD TO THE POST-  
15 SENTENCING MOTIONS, MR. TRIPODIS FILED THEM WITH AN EYE  
16 TOWARDS WHAT YOU JUST MENTIONED.

17 THE COURT: RIGHT, I UNDERSTAND THAT.

18 MR. WOLFE: AND HE FILED THE NOTICE OF APPEAL LAST,  
19 SO THAT WAS NUMBER ONE. BUT NUMBER TWO, ALTHOUGH THERE WERE  
20 SOME APPEAL WAIVERS IN HIS PLEA AGREEMENT, THERE WAS --  
21 JUDGE EVANS DID UPWARDLY DEPART FROM THE OTHERWISE GUIDELINE  
22 RANGE, SO I THINK THERE IS AN APPELLATE -- THERE ARE  
23 APPELLATE ISSUES.

24 THE COURT: OKAY. WELL, I'M -- I WILL GRANT YOUR  
25 MOTION, AS WELL AS MR. TRIPODIS'S MOTION. I'M GOING TO LET

1 YOU OUT, MR. WOLFE. MR. TRIPODIS, I'M GOING TO GRANT YOUR  
2 MOTION FOR COUNSEL FOR APPEAL, BUT I NEED YOU TO FILL OUT A  
3 FINANCIAL AFFIDAVIT. AND I WILL ASK MR. WOLFE, AS HIS LAST  
4 OFFICIAL ACT IN THIS CASE, TO ASSIST YOU IN DOING THAT.  
5 ASSUMING THAT IT SHOWS THAT YOU QUALIFY FOR COURT-APPOINTED  
6 COUNSEL, I WILL APPOINT COUNSEL TO REPRESENT YOU.

7 MR. WOLFE: MUCH OF THE -- IF THE COURT WILL ALLOW  
8 ME, MUCH OF HIS FINANCIAL STATUS, IT WAS IN THE PRESENTENCE  
9 REPORT AND I'LL BE HAPPY TO SHARE THAT OR A COPY OF THAT  
10 ASPECT OF IT WITH YOU AS A PART OF THE --

11 THE COURT: THAT WOULD BE GOOD, BECAUSE I DON'T HAVE  
12 ACCESS TO THAT RIGHT NOW.

13 MR. TRIPODIS: YOUR HONOR, I ALSO HAD TO FILE -- THE  
14 CLERK SENT ME SOME PAPERWORK TO PROCEED IN FORMA PAUPERIS  
15 THAT I FILLED OUT AND SENT BACK TO THE CLERK. THAT MAY ALSO  
16 BE ON FILE.

17 THE COURT: LET ME SEE. I REMEMBER SEEING THAT.  
18 HERE IT IS. IT'S DOCUMENT [121]. DO YOU NEED TO SEE THIS,  
19 MR. WOLFE?

20 MR. WOLFE: WHAT IS THAT, YOUR HONOR?

21 THE COURT: THE IN FORMA PAUPERIS AFFIDAVIT THAT MR.  
22 TRIPODIS FILED ON JUNE 12<sup>TH</sup>.

23 MR. WOLFE: IF YOU ACTUALLY HAVE A COPY OF IT --

24 THE COURT: I DO.

25 MR. WOLFE: I COULD -- THE OTHER WAY, I COULD GIVE



1 YOU THE PRESENTENCE REPORT AND THAT MIGHT --

2 THE COURT: OKAY.

3 MR. WOLFE: AND I MUST SAY, JUST FOR THE RECORD,  
4 THAT I WASN'T COMPLETELY INEFFECTIVE AT SENTENCING. WE  
5 ACTUALLY HAD A VERY GOOD SENTENCING, IT'S JUST SOME ISSUES  
6 CAME UP AT THE END THAT, YOU KNOW, WHERE I MAY HAVE --  
7 THAT'S THE ISSUE THAT WE'RE TALKING ABOUT, WHAT I SHARED  
8 WITH YOU A MOMENT AGO.

9 THE COURT: RIGHT.

10 MR. WOLFE: HERE'S THE AMENDED REPORT AND THE  
11 OBJECTIONS. AND THE FINANCIAL INFORMATION IS IN THE BACK.

12 THE COURT: WHAT'S THE AMOUNT OF THE RESTITUTION IN  
13 THE OTHER CASE?

14 MR. WOLFE: FORTUNATELY, JUDGE, THERE WAS NONE. ALL  
15 THE VEHICLES WERE RECOVERED, SO THERE IS NO RESTITUTION  
16 AMOUNT.

17 THE COURT: THIS PRESENTENCE REPORT --

18 MR. TRIPODIS: I THINK HE'S SPEAKING ABOUT THE  
19 PREVIOUS CASE.

20 THE COURT: -- REFERENCES ANOTHER CASE.

21 MR. WOLFE: OH, THE OTHER CASE. I BEG YOUR PARDON.

22 MR. TRIPODIS: IT IS -- IT WAS INITIALLY \$264,000,  
23 YOUR HONOR. AND I THINK THAT I PAID ABOUT \$50,000 OF THAT.  
24 BUT TO THE EXTENT THAT THE OFFENSE WAS COMMITTED AFTER 1996,  
25 THERE'S INTEREST, SO I'M NOT COMPLETELY SURE AS TO EXACTLY

1 HOW MUCH IT IS RIGHT NOW.

2 THE COURT: MR. TRIPODIS, IF YOU WOULD RAISE YOUR  
3 RIGHT HAND. DO YOU SWEAR OR AFFIRM THAT THE EVIDENCE YOU  
4 ARE ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THE COURT  
5 IS THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO  
6 HELP YOU GOD?

7 MR. TRIPODIS: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. YOU HAVE JUST PREPARED THIS  
9 FINANCIAL AFFIDAVIT?

10 MR. TRIPODIS: YES.

11 THE COURT: IS IT A TRUE, CORRECT, ACCURATE AND  
12 COMPLETE STATEMENT OF YOUR FINANCIAL CONDITION AS IT  
13 CURRENTLY EXISTS?

14 MR. TRIPODIS: YES, SIR.

15 THE COURT: ALL RIGHT. I FIND YOU QUALIFY FOR  
16 COURT-APPOINTED COUNSEL, AND I WILL APPOINT A NEW LAWYER TO  
17 REPRESENT YOU POST-TRIAL FOR APPEAL PURPOSES. WHERE ARE YOU  
18 BEING HOUSED -- AT SOUTH FULTON?

19 MR. TRIPODIS: YES, YOUR HONOR.

20 THE COURT: ALL RIGHT. WELL, WE'LL CALL AROUND AND  
21 FIND YOU A LAWYER. I THINK THE FEDERAL DEFENDER PROGRAM IS  
22 CONFLICTED OUT. THEY REPRESENTED MS. STANTON. PROBABLY  
23 ANYBODY WHO'S WITH THE FEDERAL DEFENDER PROGRAM IN THE LAST  
24 TWO YEARS WOULD LIKELY BE CONFLICTED OUT, SO WE'LL HAVE TO  
25 FIND SOMEBODY WHO'LL BE IN TOUCH WITH YOU. AND THEN I WILL

1 RECONFIRM WITH JUDGE EVANS THAT SHE WANTS ME TO HANDLE  
2 WHATEVER MATTERS ARE STILL PENDING.

3 MR. TRIPODIS: OKAY.

4 MR. WOLFE: MAY I ASK ONE QUESTION, JUDGE? HE WAS  
5 SENTENCED, I DON'T KNOW, WITHIN THE LAST SIXTY DAYS AND WILL  
6 SOON BE IN TRANSIT. I DON'T KNOW IF THERE IS -- I DON'T  
7 KNOW WHO HAS THE AUTHORITY TO DO WHAT, BUT IS THERE ANYTHING  
8 THAT CAN BE DONE TO KEEP HIM HERE UNTIL THAT PERSON IS  
9 APPOINTED AND AT LEAST THE MOTIONS PENDING HERE IN COURT ARE  
10 RESOLVED?

11 THE COURT: MY RECOLLECTION IS THERE IS, BECAUSE I  
12 USED TO DO IT, BUT I'M TRYING TO THINK ABOUT WHETHER OR NOT  
13 IT'S FEDERAL AS WELL AS STATE. BUT I'LL APPOINT SOMEBODY  
14 TODAY WHO CAN JUMP ON THAT FAIRLY QUICKLY. IF YOU COULD  
15 CALL MR. PLUMMER BACK IN.

16 *[A.U.S.A. PLUMMER RETURNS TO COURTROOM.]*

17 ALL RIGHT, MR. PLUMMER, I MADE INQUIRY OF MR. WOLFE AND  
18 MR. TRIPODIS AND I THINK THAT IT'S PRUDENT TO ASSIGN ANOTHER  
19 LAWYER TO MR. TRIPODIS AT THIS STAGE OF THE PROCEEDINGS. HE  
20 QUALIFIES FOR COURT-APPOINTED COUNSEL AND I WILL APPOINT A  
21 LAWYER TO REPRESENT HIM. AT THAT POINT, I WILL DO TWO  
22 THINGS. FIRST, I WILL CONFIRM WITH JUDGE EVANS THAT SHE  
23 WANTS ME TO HANDLE THE MATTER OF THE OTHER MOTIONS THAT ARE  
24 PENDING AND I WILL ISSUE AN ORDER. ONE OF THE QUESTIONS I  
25 HAVE IS WHETHER OR NOT THIS COURT, THE DISTRICT COURT, HAS

1 JURISDICTION TO RULE ON ANY OF THE MATTERS. SO I'LL ISSUE A  
2 BRIEFING SCHEDULE SO I CAN HEAR FROM NEW COUNSEL AND FROM  
3 THE GOVERNMENT IN REGARD TO THAT. OKAY?

4 IS THERE ANYTHING FURTHER WE NEED TO TALK ABOUT TODAY?

5 MR. WOLFE: NO, THANK YOU. CAN I HAVE MY --

6 THE COURT: YOU MAY HAVE YOUR --

7 MR. WOLFE: MAY I.

8 THE COURT: -- PSR BACK. OBVIOUSLY, YOU'RE  
9 DIRECTED TO COOPERATE WITH NEW COUNSEL, AS I'M SURE YOU  
10 WILL.

11 MR. WOLFE: YES, SIR.

12 THE COURT: ALL RIGHT. WE'LL BE IN RECESS. THANK  
13 YOU ALL FOR COMING IN.

14 [COURT ADJOURNED.]

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**C E R T I F I C A T E**

UNITED STATES OF AMERICA,  
NORTHERN DISTRICT OF GEORGIA:

I, ANDY ASHLEY, OFFICIAL COURT REPORTER OF THE  
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
GEORGIA, DO HEREBY CERTIFY THAT THE FOREGOING 11 PAGES  
CONSTITUTES A TRUE TRANSCRIPT, TO THE BEST OF MY ABILITY, OF  
THE TAPE-RECORDED PROCEEDINGS HAD BEFORE THE SAID COURT,  
HELD IN THE CITY OF ATLANTA, GEORGIA, IN THE MATTER THEREIN  
STATED.

IN TESTIMONY WHEREOF, I HEREUNTO SET MY HAND ON  
THIS, THE \_\_\_\_ DAY OF SEPTEMBER, 2008.

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ANDY ASHLEY  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT